

Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>12</sup> normally does not become operative prior to 30 days after the date of the filing.<sup>13</sup> However, pursuant to Rule 19b-4(f)(6)(iii),<sup>14</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. Without a waiver of 30-day operative delay, the Exchange's Pilot Program will expire before the extension of the Pilot Program is operative. The Commission believes that waiving the 30-day operative delay for the instant filing is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.<sup>15</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2018-48 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2018-48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549-1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2018-48 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83504; File No. SR-CBOE-2018-045]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Exchange Rule 6.2., Hybrid Opening (and Sometimes Closing) System ("HOSS")

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

"Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 15, 2018, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.2., Hybrid Opening (and Sometimes Closing) System ("HOSS").

(additions are *italicized*; deletions are [bracketed])

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#### Cboe Exchange, Inc. Rules

\* \* \* \* \*

Rule 6.2. Hybrid Opening (and Sometimes Closing) System ("HOSS")

(a)-(h) (No change).

. . . Interpretations and Policies:

.01 *Modified Opening Procedure for Series Used to Calculate the Exercise/Final Settlement Values of Volatility Indexes.* All provisions set forth in Rule 6.2 remain in effect unless superseded or modified by this Interpretation and Policy .01. On the dates on which the exercise and final settlement values are calculated for options (as determined under Rule 24.9(a)(5) or (6)) or (security) futures contracts on a volatility index (*i.e.*, expiration and final settlement dates), the Exchange utilizes the modified opening procedure described below for all series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures contracts (these option series referred to as "constituent options").

(a) *Strategy Orders.* All orders for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, *expiring* volatility index options or (security) futures ("strategy orders"), and any change to or cancellation of any such order:

(i)-(ii) (No change).

Whether orders are strategy orders for purposes of this Rule 6.2.01 depends

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

upon specific facts and circumstances. The Exchange may also deem order types other than those provided above as strategy orders if the Exchange determines that to be the case based upon the applicable facts and circumstances.

(b) *Non-Strategy Orders.* All other orders for participation in the modified opening procedure[s] (“non-strategy orders”), and any change to or cancellation of any such order, must be received prior to the applicable cut-off time (as determined by the Exchange on a class-by-class basis) in order to participate at the opening price for the applicable series, which may be no earlier than 8:25 a.m. and no later than the opening of trading in the option series. The Exchange will announce all determinations regarding changes to the applicable non-strategy order cut-off time at least one day prior to implementation.

(c) *Market-Makers.* A Market-Maker with an appointment in a class with constituent option series may submit bids and offers in those series for bona fide market-making purposes in accordance with Rule 8.7 and the Exchange Act for its market-maker account prior to the open of trading for participation in the modified opening procedure. The Exchange will deem these bids and offers to be non-strategy orders, and will not deem them to be changes to or cancellations of previously submitted strategy orders, if:

- (i) The Trading Permit Holder with which the Market-Maker is affiliated has established, maintains, and enforces reasonably designed written policies and procedures (including information barriers, as applicable), taking into consideration the nature of the Trading Permit Holder’s business and other facts and circumstances, to prevent the misuse of material nonpublic information (including the submission of strategy orders); and
- (ii) when submitting these bids and offers, the Market-Maker has no actual knowledge of any previously submitted strategy orders.

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The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

## II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

Cboe Options and Cboe Futures Exchange, LLC (“CFE”) list options and futures, respectively, on different volatility indexes that are calculated using prices of options traded on Cboe Options.<sup>5</sup> The final settlement value for these derivatives is determined on the morning of their expiration date through a special opening quotation (“SOQ”) of the volatility index using the opening prices of a portfolio of options (for example, the settlement value of VIX options and futures uses the opening prices of a portfolio of S&P 500 Index options (“SPX options”) that expire approximately 30 days later). On the days when the settlement values for these contracts are determined, Cboe Options opens the constituent options<sup>6</sup> for these volatility indexes using the modified Hybrid Opening System (“HOSS”) procedure.<sup>7</sup> The main feature of the modified HOSS procedure used to calculate the exercise/final settlement value of volatility indexes for expiring options and (security) futures that distinguishes it from the normal opening procedure used on all other days is a cutoff time for the entry of strategy orders.<sup>8</sup> By providing market

<sup>5</sup> These volatility indexes include the Cboe Volatility Index (“VIX”) and the Russell 2000 Volatility Index (“RVX”). Options expire on an expiration date and settle to an exercise settlement value, and futures settle on a final settlement date to a final settlement value. For ease of reference, the Exchange will use the options terminology throughout this filing when referring to the “expiration/final settlement date” and “expiration/final settlement value” for volatility index derivatives.

<sup>6</sup> “Constituent options” are the series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures contracts.

<sup>7</sup> See Rule 6.2, Interpretation and Policy .01.

<sup>8</sup> Strategy orders are all orders (defined in Rule 1.1(000) as a firm commitment to buy or sell option contracts) for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, volatility index options or (security) futures (as discussed below, the proposed rule change is adding “expiring” to this definition). In general, the Exchange considers orders to be strategy orders if they are for (a) option series with the expiration that will be used to

participants with a mechanism to buy and sell constituent options at prices used to calculate the final settlement value of the volatility index derivatives, the volatility index settlement process is “tradable.”

The volatility index settlement process is patterned after the process used to settle SPX options. On the days SPX options expire, S&P calculates an SOQ of the S&P 500 Index using the opening prices of the component stocks in their primary markets. Market participants can replicate the exposure of their expiring SPX options by entering orders to buy and sell the component stocks of the S&P 500 Index at their opening prices. If they are successful, market participants can effectively construct a portfolio that matches the value of the SOQ. At this point, the derivatives and cash markets converge.

In a very similar way, the exercise settlement value for volatility index derivatives is an SOQ of the volatility index using opening prices of the constituent options used to determine the value of the index. With respect to VIX, the VIX exercise settlement value is calculated using the opening prices of SPX options that expire approximately 30 days later. Analogous to the settlement process for SPX options, market participants can replicate the exposure of their expiring VIX derivatives by entering buy and sell orders in constituent SPX options. If they are successful, market participants can effectively construct a portfolio of SPX options whose value matches the value of the VIX SOQ. By doing so, market participants may make or take delivery of the SPX options that will be used to settle VIX derivatives.

A tradable settlement creates the opportunity to convert the exposure of an expiring VIX derivative into the portfolio of SPX options that will be used to settle the expiring contract. Specifically, some market participants

calculate the exercise or final settlement value of the applicable volatility index option or futures contract; (b) option series spanning the full range of strike prices for the appropriate expiration for option series that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract (not necessarily every available strike price); and (c) put options with strike prices at or less than the “at-the-money” strike price and for call options with strike prices greater than or at the “at-the-money” strike price. Whether orders are strategy orders depends upon specific facts and circumstances. The Exchange may also deem order types other than those provided above as strategy orders if the Exchange determines that to be the case based upon the applicable facts and circumstances. The strategy order cut-off time may be no earlier than 8:00 a.m. and no later than the opening of trading in the series, and is currently 8:20 a.m. Chicago time. See Rule 6.2, Interpretation and Policy .01.

may desire to maintain the vega, or volatility, risk exposure of expiring VIX derivatives. Since VIX derivatives expire 30 days prior to the SPX options used to calculate their settlement value, a market participant may have a vega risk from its portfolio of index positions that the participant wants to continue to hedge after the participant's VIX derivatives expire. To continue that vega coverage following expiration of a VIX derivative, a market participant may determine to trade the portfolio of SPX options used to settle an expiring VIX derivative, since those SPX options still have 30 more days to expiration. This trade essentially replaces the uncovered vega exposure "hole" created by an expiring VIX derivative.

Since the VIX settlement value converges with the value of the portfolio of SPX options used to calculate the settlement value of VIX derivatives, trading this SPX option portfolio mitigates settlement risk. This is because, if done properly, the vega exposure obtained in the SPX option portfolio will replicate the vega exposure of the expiring VIX derivative (*i.e.*, elimination of slippage). Because a market participant is converting vega exposure from one instrument (expiring VIX derivative) to another (portfolio of SPX options expiring in 30 days), the market participant is likely to be indifferent to the settlement price received for the expiring VIX derivative. Importantly, trading the next VIX derivative expiration (*i.e.*, rolling) will not accomplish the conversion of vega exposure since that VIX derivative contract would necessarily cover a different period of expected volatility and would be based on an entirely different portfolio of SPX options.

To replicate expiring volatility index derivatives on their expiration dates with portfolios of constituent options, market participants generally submit strategy orders to participate in the modified HOSS procedure on volatility index settlement dates. The Exchange understands that the entry of strategy orders may lead to order imbalances in the option series being used to determine the final settlement value. To the extent (1) market participants seeking to replicate an expiring VIX derivative position are on one side of the market (*e.g.*, strategy order to buy SPX options) and (2) those market participants' orders predominate over other orders during the modified HOSS procedure, those trades may contribute to an order imbalance prior to the open.

To provide market participants with time to enter additional orders and quotes to offset any such imbalances prior to the opening of these series, the

Exchange established a strategy order cut-off time.<sup>9</sup> The time period after this cut-off time also permits market participants to, among other things, update prices of orders and quotes in response to changing market conditions until the open of trading.<sup>10</sup> Generally, if a series (1) has a market order imbalance, or (2) is at a price that is outside the Exchange prescribed opening width (as described in Rule 6.2(d)), the series will not open for trading. Prior to the open, the Exchange disseminates messages to market participants indicating the expected opening price for a series or imbalance information for that series (as applicable) to further encourage market participants to enter orders and quotes to offset any imbalances, to submit competitively priced bids and offers, and to promote a fair and orderly opening.

In the options market, it is important for Market-Makers to provide liquidity to execute against orders submitted by other market participants. Pursuant to Rule 8.7, a Market-Maker has general obligations to, among other things, engage (to a reasonable degree under existing circumstances) in dealings for the Market-Maker's own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for an option (*i.e.*, an imbalance), to compete with other Market-Makers to improve markets in its appointed classes, and to update market quotations in response to changed market conditions in its appointed classes. Certain types of Market-Makers have obligations to facilitate resolution of imbalances and make competitive markets, and the proposed rule change is consistent with those obligations.<sup>11</sup> As described above, the entry of strategy orders may lead to order imbalances in the option series used to determine the final settlement value for expiring volatility index derivatives. In order for the Exchange's system to open these series for trading (*i.e.*, to resolve order imbalances) and achieve the most competitive pricing in these series,

<sup>9</sup> See Securities Exchange Act Release Nos. 52367 (August 31, 2005), 70 FR 53401 (September 8, 2005) (SR-CBOE-2004-86) (established initially for rapid opening system procedure, which is no longer used).

<sup>10</sup> Pursuant to Rule 6.2, Interpretation and Policy .01(b), the Exchange may determine a non-strategy order cut-off time, which may be no earlier than 8:25 a.m. and no later than the opening of trading. The current non-strategy order cut-off time is the opening of trading.

<sup>11</sup> See, *e.g.*, Rules 8.15 and 8.85 (describing obligations of Lead-Market-Makers and Designated Primary Market-Makers, respectively).

Market-Maker participation in the modified HOSS procedure is important for adding liquidity and promoting a fair and orderly opening and settlement process.

The Exchange understands that some Market-Makers may hesitate to provide liquidity that could resolve order imbalances, out of a concern that adding such liquidity after the strategy order cut-off time could be deemed either a new strategy order or a modification to or cancellation of an existing strategy order. As a result, this perceived risk may lead to reduced liquidity and may exacerbate the time it takes to open a series at a competitive price.<sup>12</sup> The proposed rule change encourages Market-Makers to provide liquidity on volatility index derivative settlement days by explicitly stating in Rule 6.2, Interpretation and Policy .01 that bona fide Market-Maker activity does not constitute either a strategy order or a modification to or cancellation of a previously submitted strategy order during the modified HOSS procedure. The Exchange believes Market-Maker liquidity is important to the resolution of order imbalances on volatility index settlement days and to the orderly opening of series on such days, due to the fact that a series cannot open if there is a market order imbalance. Also, Market-Maker liquidity is desirable to advance the opening of series at competitive prices on volatility index settlement days. The Exchange's system also relies on Market-Maker liquidity to open series for trading. Pursuant to Rule 6.2(d), the Exchange's system will not open a series for trading if there are no Market-Maker quotes present. Additionally, the width of the best Market-Maker quotes on the Exchange must be within a certain price range for the System to open a series for trading. The Exchange believes the proposed rule change will incentivize Market-Maker liquidity on volatility settlement days by explicitly stating in the Rules that providing such liquidity will not be deemed to constitute either submission of a strategy order or modification to or cancellation of a previously submitted strategy order.

Specifically, proposed Rule 6.2, Interpretation and Policy .01(c) states a Market-Maker with an appointment in a class with constituent option series may submit bids and offers in those series for bona fide market-making purposes in accordance with Rule 8.7 and the Securities Exchange Act of 1934 (the "Act"), for its market-maker account prior to the open of trading for participation in the modified opening

<sup>12</sup> See Rule 6.2(d).

procedure. The Exchange will deem these bids and offers to be non-strategy orders, and will not deem them to be changes to or cancellations of previously submitted strategy orders, if:

(i) The Trading Permit Holder with which the Market-Maker is affiliated has established, maintains, and enforces reasonably designed written policies and procedures (including information barriers, if applicable), taking into consideration the nature of the business of the Trading Permit Holder and other facts and circumstances, to prevent the misuse of material nonpublic information (including the submission of strategy orders); and

(ii) when submitting these bids and offers, the Market-Maker has no actual knowledge of any previously submitted strategy orders.

In other words, if a Market-Maker submits bids or offers in constituent options on a volatility index derivative settlement day, and if such bids and offers are for its market-maker account and submitted for purposes of its market-making activities on the Exchange (including in accordance with Market-Maker obligations, such as to offset imbalances or provide competitive pricing), the Market-Maker may submit those bids and offers any time prior to the open of trading, including both before and after the strategy order cut-off time. As long as the Trading Permit Holder has appropriate procedures in place both to prevent the Market-Maker from knowing about the submission of strategy orders by other persons within the Trading Permit Holder organization with which it is affiliated, and to prevent other persons from knowing about the Market-Maker's submission of bids and offers, the Exchange will not review such bids and offers for either potential impermissible entry of strategy orders, or cancellations of or modifications to previously submitted strategy orders.

Bona fide Market-Maker activity is generally activity consistent with Market-Maker requirements under the Act and Cboe Options Rules:

- Pursuant to the Act, a market-maker is a specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.<sup>13</sup>

- Pursuant to Rule 8.7, a Market-Maker appointed to a class must, among other things, engage to a reasonable degree under existing circumstances in dealings for the Market-Maker's own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for an option (*i.e.*, an imbalance), to compete with other Market-Makers to improve markets in its appointed classes, and to update market quotations in response to changed market conditions in its appointed classes. Additionally, pursuant to Rule 8.7, all quotes a Market-Maker submits, including prior to the opening, must comply with all requirements, including applicable bid-ask differential and minimum size requirements.<sup>14</sup> Rule 8.7, Interpretation and Policy .01 imposes an ongoing price continuity requirement on Market-Makers that applies through the opening of trading, as well as during regular trading hours.

- In addition to these obligations, Market-Makers also effect transactions for the purpose of hedging, reducing risk of, rebalancing, or liquidating their open positions.<sup>15</sup>

As noted above, the Exchange implemented the strategy order cut-off time for the operational purpose of providing market participants with time to enter additional orders and quotes to offset any such imbalances prior to the opening of these series.<sup>16</sup> The Exchange's surveillance procedures to determine market participants' compliance with the strategy order cut-off time are separate and distinct from the Exchange's surveillance procedures to identify potentially manipulative behavior. Therefore, from the Exchange's perspective, whether a Market-Maker's bids and offers constitute strategy orders is distinct from whether the submitting Market-Maker is attempting to engage in manipulative behavior. The classification of bona fide Market-Maker activity as non-strategy orders will have no impact on the Exchange's surveillance procedures to detect activity intended to manipulate the settlement value or violate other Rules. Additionally, all Market-Maker bids and offers, even though not considered strategy orders pursuant to the proposed rule change, will continue to be subject to Exchange surveillance procedures

that monitor trading in the option series used to calculate volatility index settlement values on expiration dates, as well as surveillance procedures that monitor Market-Maker activity for compliance with Market-Maker obligations in the Rules. This activity will merely be excepted from Exchange surveillance procedures determining compliance with the operational strategy order cut-off time.

The Exchange believes Market-Makers are more likely to interact with and resolve order imbalances on volatility index settlement days if they can be confident that their bids and offers submitted for that purpose will not be deemed strategy orders or cancellations of or modifications to previously submitted strategy orders. As discussed above, the purpose of the strategy order cut-off time is to provide market participants, including Market-Makers, with sufficient time to address imbalances created by strategy orders. Additionally, as discussed above, pursuant to Rule 6.2(d), whether a series opens depends on the presence of Market-Maker quotes at prices no wider than an acceptable price range. Market-Makers are an important source of liquidity on the Exchange, and also have various obligations with which they must comply. The proposed rule change will provide a Market-Maker with an opportunity to provide liquidity on volatility settlement dates and to satisfy their Market-Maker obligations, without concern that the Exchange may consider such activity to constitute the placing of, or cancellations to or modifications of, strategy orders, even if the Trading Permit Holder organization with which the Market-Maker is affiliated submitted a strategy order.

The purpose of this proposed change is to accommodate the fact that the Trading Permit Holder with which the Market-Maker is affiliated may submit a strategy order while the Market-Maker may also be submitting bids and offers to accommodate a fair and orderly opening process, by among other things, resolving market order imbalances and submitting competitively priced bids and offers.

For example, a Trading Permit Holder organization may have an SPX Market-Maker and a separate volatility trading desk. During the modified opening procedure on a volatility settlement day, the trading strategy of the SPX Market-Maker is to provide markets in SPX options (both before and after the strategy order cut-off time), and the trading strategy of the volatility trading desk may be to replicate Vega exposure by replacing its expiring VIX options positions with positions in the SPX

<sup>14</sup> Rule 6.2, Interpretation and Policy .02 permits the Exchange to set different minimum quote size and bid-ask differential requirements for opening quotes as those for intraday quotes.

<sup>15</sup> See, e.g., Rule 8.7, Interpretation and Policy .03.

<sup>16</sup> See *supra* note 9.

<sup>13</sup> 15 U.S.C. 78c(a)(38); see also 12 U.S.C. 1851(d)(1)(B) (market-making is intended to service "the reasonably expected near-term demand" of other parties).

constituent series. To replicate its Vega exposure, the volatility trading desk may enter strategy orders prior to the strategy order cut-off time. These are separate and distinct trading strategies. If the Trading Permit Holder organization has reasonable policies and procedures in place such that the SPX Market-Maker has no knowledge of the volatility trading desk's submission of strategy orders, and that the volatility trader has no knowledge of the SPX Market-Maker's submission of bids and offers, the Exchange believes it is appropriate for the SPX Market-Maker's bids and offers to not be deemed strategy orders, or the modification to or cancellation of the strategy order submitted by its affiliated volatility trading desk.

The Exchange does not believe it is necessary to restrict the bona fide market-making activities of a Market-Maker within its appointed classes due to other unrelated trading activities that may involve submissions of orders deemed to be strategy orders of which the Market-Maker has no actual knowledge. The proposed rule change expressly provides that activity related to a Market-Maker's market-making activity in an appointed class will not constitute the submission of a strategy order or the cancellation of or modification to a previously submitted strategy order.

The proposed rule change makes clear that a Market-Maker's submission of bids and offers for bona fide market-making purposes in constituent series is permitted on volatility settlement days through the open of trading in the same manner as it is permitted in all in series in its appointed classes at all other times. This will encourage Market-Makers to continue to submit bids and offers through the open, despite other trading activity within the Trading Permit Holder organization. This will also ensure Market-Makers can respond to imbalances and update their quotes<sup>17</sup> in accordance with their market-making dealings and obligations. The Exchange believes this will contribute to price transparency and liquidity in the option series at the open, and thus will promote a fair and orderly opening on volatility index settlement days. The Exchange continuously evaluates the modified HOSS procedure to identify potential enhancements, and intends to modify the procedure as it deems appropriate to contribute to a fair and orderly opening process. A fair and orderly opening in these series benefits

all market participants who trade in the volatility index derivatives and the constituent options.

The proposed rule change would not eliminate a Market-Maker's requirements to abide by Exchange Rules 4.1 (Just and Equitable Principles of Trade), 4.7 (Manipulation), and 4.18 (Prevention of the Misuse of Material, Nonpublic Information). The requirement in the proposed rule change that the Trading Permit Holder with which a Market-Maker is affiliated must establish, maintain, and enforce policies and procedures reasonably designed to ensure the Market-Maker will not have knowledge of the submission of strategy orders is consistent with requirements of Rule 4.18. The Exchange will continue to conduct surveillance to monitor trading in the option series used to calculate volatility index settlement values on expiration dates, including but not limited to, monitoring entry of strategy orders, or modifications to strategy orders, following the cut-off time, as well as compliance with other Rules.

The proposed rule change also makes nonsubstantive changes to add paragraph headings and numbering.

Additionally, the proposed rule change modifies Interpretation and Policy .01(a) to state that "strategy orders" means all orders for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, expiring volatility index options or (security) futures. The addition of the word "expiring" is a codification of the Exchange's longstanding interpretation of the term strategy order. As discussed above, to replicate expiring volatility index derivatives on their expiration dates with options portfolios, market participants generally submit strategy orders to participate in the modified HOSS opening process on volatility index settlement dates. The addition of the word "expiring" is consistent with the introductory paragraph in Interpretation and Policy .01, which states the modified HOSS procedure applies to series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures, and demonstrates the rule is meant to refer to orders that relate to strategies involving expiring volatility index derivatives. Therefore, the proposed codification is consistent with this general practice, as well as the current rule.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations

thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>18</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>19</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>20</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed change will increase liquidity on volatility index settlement dates, as it will remove an impediment that may discourage Market-Makers from submitting bids and offers to offset imbalances and update the prices of their quotes in response to changing market conditions prior to the open. The Exchange believes this additional liquidity may contribute to a fair and orderly opening by increasing execution opportunities, reducing imbalances in constituent options, and increasing the presence of quotes within the acceptable price range, which would benefit all market participants who trade in the volatility index derivatives and the constituent options. The Exchange does not believe it is necessary to restrict the bona fide market-maker activities of a Market-Maker due to other unrelated trading activities by the Trading Permit Holder organization with which it is affiliated. The Exchange notes that the proposed rule change would not impact a Market-Maker's requirements to abide by Exchange Rules 4.1 (Just and Equitable Principles of Trade), 4.7 (Manipulation), and 4.18 (Prevention of the Misuse of Material, Nonpublic Information). The requirement in the proposed rule change that the Trading Permit Holder with which a Market-Maker is affiliated must establish, maintain, and enforce policies and procedures reasonably designed to ensure the Market-Maker will not have knowledge of the submission of strategy orders is consistent with requirements

<sup>17</sup> As noted above, the Exchange's system will not open a series if there is no quote or if the opening quote or price is outside an acceptable price range.

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

<sup>20</sup> *Id.*

of Rule 4.18. As a result, the Exchange does not believe that proposed rule change will be burdensome on Market-Makers.

The Exchange believes the proposed rule change will contribute to price transparency and liquidity in the option series at the open, and thus a fair and orderly opening on volatility index settlement days. A fair and orderly opening in these series benefits all market participants who trade in the volatility index derivatives and the constituent options.

The proposed rule change to add the term “expiring” to the definition of strategy orders is merely a codification of a current Exchange interpretation and is consistent with the definition of constituent options in the current rule.

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Because of the importance of Market-Maker liquidity in the options market and the Exchange’s need for competitive quotes to open a series, the Exchange believes it is appropriate for Market-Makers’ bids and offers prior to the opening of trading, including after the strategy order cut-off time, not be considered strategy orders, or cancellations to or modifications of previously submitted strategy orders. As discussed above, Market-Makers are subject to various obligations under the Rules, and the proposed rule change provides them with the ability to satisfy these obligations without the risk of their market-making activity being deemed to constitute strategy orders or modifications to or cancellations of strategy orders. The requirement in the proposed rule change that the Trading Permit Holder with which a Market-Maker is affiliated must establish, maintain, and enforce policies and procedures reasonably designed to ensure the Market-Maker will not have knowledge of the submission of strategy orders is consistent with requirements of Rule 4.18. As a result, the Exchange does not believe the proposed rule change will be burdensome on Market-Makers. The Exchange does not believe it is necessary to restrict the bona fide market-maker activities of a Trading Permit Holder organization due to its other unrelated trading activities. The proposed rule change has no impact on intermarket competition, as it applies to orders and quotes submitted to an SOQ process the Exchange conducts prior to the open of trading in certain classes.

Cboe Options believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. The Exchange believes the proposed rule change will contribute to price transparency and liquidity in constituent options at the open on volatility index settlement days, and thus to a fair and orderly opening on those days. A fair and orderly opening, and increased liquidity, in these series benefits all market participants who trade in the volatility index derivatives and the constituent options.

The proposed rule change to add the term “expiring” to the definition of strategy orders has no impact on competition, as it is merely a codification of a current Exchange interpretation and is consistent with the definition of constituent options in the current rule.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>21</sup> and subparagraph (f)(6) of Rule 19b–4 thereunder.<sup>22</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>22</sup> 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR–CBOE–2018–045 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2018–045. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–045 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-13977 Filed 6-28-18; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83516; File No. SR-MRX-2018-21]

### Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Rules Pertaining to Co-Location and Direct Connectivity

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 13, 2018, Nasdaq MRX, LLC ("MRX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to relocate the Exchange's rules pertaining to co-location and direct connectivity, which are presently at Section VI, subsections A (co-location) and B-D (direct connectivity) of the Exchange's Schedule of Fees, to the Exchange's new rulebook shell, entitled "General Rules," at new General 8 ("Connectivity"), Sections 1 and 2, respectively.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqmrxcchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to relocate its rules governing co-location and direct connectivity services, which presently comprise Section VI, subsections A (co-location) and B-D (direct connectivity) of the Exchange's Schedule of Fees. The Exchange proposes to establish, within its new rulebook shell,<sup>3</sup> a new General 8 heading, entitled "Connectivity," to renumber Section VI, subsection A as Section 1 thereunder, and to renumber Section VI, subsections B, C, and D as Section 2(a), (b), and (c) thereunder.<sup>4</sup> The Exchange also proposes to update internal cross-references in the renumbered Rules.

The Exchange considers it appropriate to relocate these Rules to better organize its Rulebook. The other Affiliated Exchanges intend to propose similar reorganizations of their co-location and direct connectivity rules so that these rules will be harmonized among all of the Affiliated Exchanges.

The relocation of the co-location and direct connectivity rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges. The Exchange believes that moving the co-location and direct connectivity rules to their new location will facilitate the use of the Rulebook by Members of the Exchange who are members of other Affiliated Exchanges. Moreover, the proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their numbers and make conforming cross-reference changes.

<sup>3</sup> Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges: The Nasdaq Stock Exchange, LLC; Nasdaq BX, Inc.; Nasdaq PHLX, LLC; Nasdaq ISE, LLC; and Nasdaq GEMX, LLC (together with MRX, the "Affiliated Exchanges"). See Securities Exchange Act Release No. 82172 (November 29, 2017), 82 FR 57495 (December 5, 2017) (SR-MRX-2017-26).

<sup>4</sup> The Exchange notes that as a consequence of this proposal, it will list its fees, in part, in Section VI of the Rulebook and, in part, in General 8.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way its Rulebook is organized, providing ease of reference in locating co-location and direct connectivity rules, and harmonizing the Exchange's Rules with those of the other Affiliated Exchanges. As previously stated, the proposed Rule relocation is non-substantive.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

#### C. Self-Regulatory Organization's Statement on Comments Received From Members, Participants, or Others

No written comments were either solicited or received.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.